BOMBAY ACT No. LXI OF 1949.[1]

[THE BOMBAY MALEKI TENURE ABOLITION ACT, 1949.]

[*11th January 1950*]

An Act to abolish the Maleki tenure in the Province of Bombay.

WHEREAS it is expedient to abolish the Maleki tenure which prevails in certain parts of the Province of Bombay and to provide for certain consequential and incidental matters hereinafter appearing; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Maleki Tenure Abolition Act, 1949.

(*2*) It extends to the District of Kaira.

(*3*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, specify.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Maleki village" means a village specified in the Schedule appended to this Act;

(*b*) "Malek" means a holder of a Maleki village and includes his co-sharers;

(*c*) "Code" means the Bombay Land Revenue Code, 1879.

Bom. V of 1879.

(*2*) Any word or expression which is defined in the Code and not defined in this Act shall be deemed to have the meaning given to it by the Code.

(*3*) References in this Act to the incidents of the Maleki tenure shall, notwithstanding the abolition of the said tenure by this Act, be construed as references to the incidents as they were in force immediately before this Act comes into force.

Abolition of Maleki tenure and its incidents.

3. (*1*) With effect from and on the date on which this Act comes into force,—

(*a*) the Maleki tenure wherever it prevails in the District of Kaira shall be deemed to have been abolished;

(*b*) in particular, a Malek shall not be entitled,—

(*i*) to receive any share of revenues of vajeli lands in his village;

(*ii*) to receive any share of the miscellaneous revenues consisting of sale proceeds of grass, grazing, produce of fruit trees or wood on waste vajeli lands in his village;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1949, Part V, page 263.

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(*iii*) to claim a preferential right for the purchase of the occupancy of any waste vajeli land; and

(*iv*) to claim a right to nominate a Talati.

(*2*) Nothing in sub-section (*1*) shall affect the right of a Malek to hold nakru lands as being exempt from payment of land revenue or to receive santh cash payment to which he is entitled under the sanad granted on behalf of the Crown.

(*3*) Save as expressly provided by this Act, all the incidents of the said tenure shall be deemed to have been extinguished, notwithstanding any law, custom or usage, or anything contained in any sanad, grant, settlement, contract or order made by or entered into on behalf of the Crown.

All lands liable to land revenue in Maleki villages.

4. (*1*) Subject to the provisions of sub-section (*2*), all lands in the Maleki villages are and shall be liable to the payment of land revenue in accordance with the provisions of the Code and the rules made thereunder.

(*2*) Nothing in sub-section (*1*) shall be deemed to affect the right of a Malek to hold any nakru land as being exempt from the payment of land revenue or the right of any other person to hold any other land as being so exempt under a special contract or any law for the time being in force.

Method of compensation for the extinguishment or modification of right in lands.

5. (*1*) If a Malek or any other person is aggrieved by any of the provisions of this Act as extinguishing or modifying any of his rights in land and if such person proves that such extinguishment or modification amounts to the transference to public ownership of any land or any right in or over such land such person may apply to the Collector for compensation.

(*2*) Such application shall be made in the form prescribed by rules made under this Act within six months from the date on which this Act comes into force.

(*3*) The Collector shall after holding a formal inquiry in the manner provided by the Code determine the amount of such compensation and the apportionment, if necessary, among the co-sharers entitled to it and shall make an award accordingly :

Provided that the amount of compensation for the extinguishment or modification of such rights mentioned in clause (*b*) of sub-section (*1*) of section 3 shall not exceed three times the maximum of the average of the amount proved to have been realized by the Malek during five years immediately before the date on which this Act comes into force in respect of his share in the revenues of the vajeli lands and of his share in the miscellaneous revenues mentioned in sub-clause (*ii*) of clause (*b*) of sub-section (*1*) of section 3 :

Provided further that in determining the amount of compensation in the case of any other right proved to have been extinguished or modified by the Malek or any other person, the Collector shall be guided by the provisions of sub-section (*1*) of section 23 and section 24 of the Land Acquisition Act, 1894. 1 of 1894.

(*4*) Subject to the provisions of sub-section (*5*) the award of the Collector shall be final.

(*5*) Any person aggrieved by the award of the Collector may appeal to the Bombay Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1939. Bom. XII of 1939.

(6) In deciding appeals under sub-section (5) the Bombay Revenue Tribunal shall exercise all the powers which a court has and follow the same procedure which a court follows in deciding appeals from the decree or order of an original court under the Code of the Civil Procedure, 1908. V of 1908.

Limitation. 6. Every appeal made under this Act to the Bombay Revenue Tribunal shall be filed within a period of sixty days from the date of the award of the Collector. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeal. IX of 1908.

Court-fees. 7. Notwithstanding anything contained in the Court-fees Act, 1870, every appeal made under this Act to the Bombay Revenue Tribunal shall bear a court-fee stamp of such value as may be prescribed by rules made under this Act. of 1870.

Rules. 8. The Provincial Government may, by notification published in the *Official Gazette*, make rules for the purpose of carrying out the provisions of this Act. Such rules shall be subject to the condition of previous publication.

THE SCHEDULE.

[*See* section 2 (*1*) (*a*).]

Maleki villages in Thasra taluka, Kaira district.

1. Padal.
2. Rasulpura (Padal).
3. Menpura.
4. Baladha.
5. Pali.
6. Malvan.
7. Rustampura.
8. Khadgodhra.
9. Nadadra.
10. Saloon.
11. Sanadra.
12. Palaiya.
13. Jargal.
14. Sanaiya.
15. Wangroli.
16. Sandheli.
17. Dabhali.
18. Vaso.
19. Mahi-Itadi Vadi Bhag
20. Mahi-Itadi Vallavpur.
21. Kuni.
22. Rozva.
23. Vadad.
24. Mitha-na-Muvada.
25. Angadi Kasba.
26. Angadi Pahadia.
27. Vanoda.